

Alternative Financial Disclosure Systems

BACKGROUND

- Alternative system one of four exclusions from having to file the OGE Form 450 (5 C.F.R. § 2634.905(c))

- Other exclusions:

Duties make remote the possibility of a real or apparent conflict (§ 2634.905(a))

Duties involve such a low level of responsibility due to substantial supervision or inconsequential effect on integrity of Government (§ 2634.905(b))

Filing of OGE Optional Form 450-A (§ 2634.905(d))

ALTERNATIVE SYSTEM

- Adequate to prevent possible conflicts of interest
- Written approval by OGE

TYPES OF ALTERNATIVE DISCLOSURE FORMS

- Self-certification form
- Substitute form
- No new interests form

ADVANTAGES OF AN ALTERNATIVE SYSTEM

- More timely conflict-of-interest determination
- More thorough conflict of interest determination:

Usually no reporting thresholds

Reporting of financial interests/information related to personal and business relationships not reportable on OGE Form 450

DISADVANTAGE OF AN ALTERNATIVE SYSTEM

- Self-certification form denies ability to make conflict-of-interest determination on any basis other than employee's self-certification.

DECIDING ON AN ALTERNATIVE SYSTEM

- **Needed alternative to OGE Form 450 as adequate to prevent conflicts of interest (not as means to ease administrative burden)**
- **Other exclusion criteria considered, particularly § 2634.905(a) and (b) (DAEOgram DO-94-031)**
- **OGE is receptive to approving alternative systems**

OGE OVERSIGHT

- Alternative forms filed before employee begins work on contract, grant, case, etc., or attends meeting
- Originals maintained in each contract file, grant file, etc.
- Ideally, copies maintained in central file and master list of work assignments maintained

Environmental Protection Agency

- Substitute form for SGEs serving on EPA's Federal advisory committees
- Elicits information required to make adequate conflict determinations; OGE Form 450 did not
- Developed in response to findings of GAO report

Department of Education

- Supplemental instructions to the OGE Form 450 for SGE members of the National Assessment Governing Board
- Requires the disclosure of, in addition to **all** salary and income information, **only** interests in entities that may be affected by Board actions
- Developed because the OGE Form 450 required the disclosure of certain financial interests that are unlikely to pose conflicts (e.g., interests in publicly-traded companies)

Comptroller of the Currency

- Limited modifications to previously approved substitute form
- Modifications based on changes in Treasury's supplemental standards of conduct regulation and revisions to exemptions in 5 C.F.R. part 2640 (sector mutual funds)

Other

- DOD Foreign Activities Questionnaire regarding the Emoluments Clause and the Foreign Gifts and Decorations Act

Justification for Alternative System

- 5 C.F.R. § 2634.905(c) requires only that the alternative system be adequate to prevent possible conflicts of interest

Caution

- Be wary of implementing an alternative system simply to ease administrative burden
- Alternative systems can often be as difficult to administer as the 450 system, possibly more so